IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Edwin H. Adams

Group Art Unit: 3713

Serial No.: 10/080,571

Examiner: Hotaling

Filed : 2/25/2002

Title : SYSTEM FOR PROVIDING GOLFERS WITH GOLF RELATED INFORMATION VIA A GLOBAL NETWORK

APPEAL BRIEF

Commissioner of Patents
and Trademarks
PO Box 1450
Alexandria, VA 22313-1450

Sir:

REAL PARTY IN INTEREST

Edwin H. Adams is the real party in interest in the above referenced patent application.

RELATED APPEALS AND INTERFERENCES

Neither Appellant's representative nor Appellant are aware of any related appeals and/or interferences affected by or having a bearing on the Board's decision in the pending appeal.

STATUS OF CLAIMS

Claims 1, 3-5, 8, 10 and 11 are currently pending. Claims 1, 3-5, 8, 10 and 11 stand finally rejected. Appellant accordingly appeals the Examiner's final rejection of the claims 1, 3-5, 8, 10 and 11, which is as follows:

1. Claims 1, 3-5, 8, 10 and 11 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Published Patent Application No. 2002/0082775 to Meadows et al. (Meadows).

STATUS OF AMENDMENTS

No Amendments have been filed subsequent to the issuance of the Final Rejection. All amendments filed prior to the Final Rejection have been entered and considered.

SUMMARY OF THE INVENTION

The present invention relates to a system for providing golfers with golf related information. The present system allows for the implementation of a basic and useful GPS based distance system without requiring golf facilities to purchase a complex and expensive system. In accordance with a preferred embodiment of the present invention, and with reference to Figures 7 to 9, a personal digital assistant 102 including a GPS function 104 is provided. In addition to the GPS function 104, the PDA 102 need only be provided with a memory 106, processor 108 and input/output 110. (See Specification as originally filed Page 12, lines 15-19)

In practice, an operator of the present system will obtain two location readings for each hole of each golf course participating in the present system; a first location reading 111 relating to the

front of the green and a second location reading 112 relating to the middle of the green. As such, only 36 readings are required for each course participating in the present system. (See Specification as originally filed Page 12, line 20, through Page 13, line 1)

It is contemplated that an operator will simply walk the course while carrying a PDA loaded with software designed to record location readings. The location readings are recorded and stored within the PDA, and subsequently uploaded to a central processor. The central processor then crunches the location readings into first and second coordinates to be used by golfers in a manner described below in greater detail. (See Specification as originally filed Page 13, lines 2-6)

In order to obviate the need for Internet connections as required in accordance with alternate embodiments of the present invention and prior art GPS systems, the present embodiment utilizes the generated first and second coordinates 111, 112 respectively relating to the front of the green and the middle of the green by storing the coordinates within the memory 114 of a PDA cradle 116 maintained at the respective golf course facility. With this in mind, a golfer need only show up to play golf carrying his PDA 102 loaded with software for operating in accordance with the present invention. (See Specification as originally filed Page 13, lines 7-12)

Specifically, the golfer will place his or her PDA 102 upon the cradle 116, pay a required charge and upload the coordinates for the course he or she is about to play. The required coordinates are uploaded via the input/output 118 and memory of the cradle 116. The PDA 102 is then loaded with the required respective first and second coordinates 111, 112 for identifying the front of a green and the middle of a green. When the golfer arrives at the first hole, the golfer will input a location on the first hole and the PDA 102 will calculate his or her location relative to the front and middle of the first green. The calculation is simply based upon the first and second

coordinates 111, 112 relating to the first green as stored by operators of the present system as loaded onto the PDA 102 via the cradle 116 maintained at the golf course pro shop (or other location convenient to golfers). For example, when a golfer arrives at the first tee and designates the PDA 102 as such, the PDA display will indicate the following, for example:

1st Hole – Green Grass Golf Club

405 yds. - Front

420 yds - Middle

Once the golfer has hit his or her first shot and found the struck golf ball, the PDA will be refreshed and the display will indicate the following, for example:

1st Hole – Green Grass Golf Club

155 yds. - Front

170 yds. – Middle

Upon completing the first hole, the golfer will simply designate the second hole and repeat the process. (See Specification as originally filed Page 13, line 13, through Page 14, line 15)

The present embodiment described above simplifies the underlying concept of the present invention by requiring the mapping of only 36 coordinates. In fact, it is contemplated that the 36 coordinates could be stored by an individual walking the course, uploaded to the central processor for data crunching, downloaded to the PDA of the individual taking the coordinates and stored

within a cradle memory in a few hours (if not less). (See Specification as originally filed Page 14, lines 16-20)

ISSUES

1. Whether claims 1, 3-5, 8, 10 and 11 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Published Patent Application No. 2002/0082775 to Meadows et al.

GROUPING OF THE CLAIMS

Claims 1, 3-5, 8, 10 and 11 stand or fall together.

ARGUMENTS

I. CLAIMS 1, 3-5, 8, 10 AND 11 ARE NOT OBVIOUS UNDER 35 U.S.C. §103 AS BEING UNPATENTABLE OVER MEADOWS.

Claim 1 defines a system for providing golfers with distance information relating to the location of the golfer relative to predefined locations associated with the front of a hole green and the middle of the hole green. The system includes a personal digital assistant having a GPS function, a memory, a processor, and an input/output. The system further includes a cradle shaped and dimensioned for receiving the personal digital assistant and transferring information thereto. The cradle includes a memory storing information relating to coordinates on the golf course and an input/output transmitting information to the personal digital assistant.

The coordinates stored within the memory of the cradle consist of a first coordinate relating to the front of each of the hole greens and a second coordinate relating to the middle of each of the hole greens. The personal digital assistant includes means for calculating and displaying distance between a golfer's location and a designated coordinate on the golf course based upon the first and second coordinates as loaded on the personal digital assistant via the cradle.

In contrast to the claimed invention, Meadows discloses a personal golfing assistant that is attached either directly or remotely to a GPS receiver to enable the user to engage in a process of easily surveying and/or electronically capturing geophysical data pertinent to the game of golf. The device captures the geophysical data pertinent to various locations along the golf course, for example, the center of the green, zones on the green, bunkers, water, trees, hazzards etc.

Referring to Paragraphs 189-191 of Meadows, basic course position data is transmitted amongst golfers via a PDA wireless transmission mechanism. The system further allows the user to upload target/avoidance objects and data points the user has surveyed to a central proccesing

computer via PC and/or LAN line and/or wireless link. The central processing computer applies quality control checks to the data and then makes them available for downloading back to the user's PDA. The GPS parameters specific to a course can also be inserted into the course database to enable other golfers who use the course data to automatically update their GPS with the parameters for the specific course.

As those skilled in the art will certainly appreciate Meadows discloses a golf location system common within the industry. It allows for loading of a wide variety of distance markings and requires substantial downloading and gathering of information before the system may be utilized. Although no specific downloading mechanism is provided, the system suggests downloading via wireless mechanisms or other mechanisms known within the industry. In fact, the system allows for the downloading of information via a central processing computer.

In establishing the law governing obviousness-type rejections, the Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), stated:

> Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As indicia of obviousness or nonobviousness, these inquires may have relevancy. . . This in not to say, however, that there will not be difficulties in applying the nonobviousness test. What is obvious is not a question upon which there is likely to be uniformity of thought in every given factual context. The difficulties, however, are comparable to those encountered daily by the courts in such frames of reference as negligence and scienter, and should be amenable to a case-by-case development. We believe that strict observance of the requirements laid down here will result in that uniformity and definitiveness which Congress called for in the 1952 Act.

With the foregoing in mind, the U.S. Patent & Trademark Office has determined that a

prima facie case of obviousness is established by meeting three basic criteria. First, the Examiner must show some suggestion or motivation to modify the reference or to combine reference teachings. Second, the Examiner must show a reasonable expectation of success in modifying the primary reference based upon the teachings of the prior art. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Support for the proposed modification and the reasonable expectation of success must be found in the prior art. MPEP 706.02(j). It has further been determined that "[w]here a reference is relied on to support a rejection, whether or not in a minor capacity, that reference should be positively included in the statement of the rejection." See *In re Hoch*, 428 F.2d 1341, 1342 n.3 166 USPQ 406, 407 n. 3 (CCPA 1970).

In contrast with Meadows and the other prior art know within the industry, Appellant has developed a system for providing golfers with distance information in a convenient and cost effective manner. Appellant appreciates that many golf facilities are unwilling to pay the additional expense associated with employing elaborate systems such as those disclosed by Meadows. Appellant also appreciates that a convenient and cost effective system is needed within the golf industry such that all golfers can take advantage of current GPS technology without "breaking the bank".

With this in mind, Appellant has developed the present system which provides a highly functional system while relying upon a limited number of coordinate points; specifically, the front of each hole green and the middle of each hole green. Appellant's system allows a golf course to be up and running with the ability to provide a GPS distance service in a matter of hours without incurring all of the expense of systems such as those disclosed by Meadows.

In particular, and as presented in amended claim 1, the system employs a personal digital assistant, including a GPS function, and a cradle shaped and dimensioned for receiving the personal digital assistant and transferring information thereto. The cradle includes a memory storing coordinate information consisting only of a first coordinate relating to the front of each hole green and a second coordinate relating to the middle of the hole greens. In this way, the cradle is capable of transferring a mere 36 coordinates to the personal digital assistant for use in identifying the golfer's distance to both the front and middle of the hole greens on each hole of the golf course.

Given the limited information which must be gathered to implement the present system it is designed to work economically across the 18,000 golf courses in the US. In practice, it is contemplated that the cradle sits on the pro shop counter and the pro sells the coordinates (and a blank PDA with software to use the coordinates where the golfer does not already own a functioning PDA).

The claimed system stands in start contrast to the elaborate, expensive and difficult to implement system disclosed by Meadows. Meadows does not disclose the claimed cradle and does not disclose a memory within the cradle storing coordinate information consisting only of a first coordinate relating to the front of each hole green and a second coordinate relating to the middle of the hole greens.

In order for Meadows to read upon the pending claims, it is necessary for the Examiner to prove the obviousness of providing a cradle which transfers coordinate information consisting only of a first coordinate relating to the front of each of the hole greens and a second coordinate relating to the middle of each of the hole greens. It is Appellant's opinion the use of such a cradle and coordinate information is neither disclosed nor suggested by Meadows (or the other cited prior art in

the present application).

As discussed above, in order to meet the burden of proving obviousness the Examiner must show a suggestion or motivation to modify the reference or to combine reference teachings. The Office must also show support for the proposed modification and the reasonable expectation of success. Finally, the information must be found in the prior art.

Meadows, the sole prior art reference cited by the Examiner, fails to disclose or suggest each of the features defined in the pending claim. As such, and based upon this simple fact, it is difficult to understand how Meadows alone can render the pending claims obvious. In particular, Meadows does not disclose or suggest a cradle as claimed. The Examiner attempts to remedy this situation by suggesting that cradles are well known data transfer equipment used in conjunction with personal digital assistants. While this may be true, the present invention does not merely claim a cradle, but rather claims a cradle which includes a memory storing coordinate information relating to coordinates on a golf course and an input/output transmitting information to the personal digital assistant, wherein the coordinates stored within the memory of the cradle consist of a first coordinate relating to the front of each of the hole greens and a second coordinate relating to the middle of each of the hole greens. Such structure is far from common in the prior art. In fact, it is Appellant's understanding that nothing in prior art either discloses or suggests such structure.

The Examiner is required to provide support for the contention of obviousness, since Meadows clearly fails to anticipate the claimed invention. The Examiner must first show some suggestion or motivation to modify the reference or to combine reference teachings. Meadows is designed as a system for use with a wide variety of data points and neither discloses nor suggests the cradle and 36 point system claimed in accordance with the present invention. Since Meadows does

not appreciate such a system and no prior art is cited as supporting the modification to include a cradle as claimed, it is difficult to understand how one can consider Meadows to provide some suggestion or motivation for modifications to read upon the pending claims.

Meadows does not disclose or suggest the provision of a golf distance system which only relies upon coordinate information concerning the front and middle of each green of a golf course. While Meadows does mention the front and middle of each green as a desirable location point for marking, these are only one of many points Meadows contemplates in accordance with the disclosed invention. Any argument that it would in fact be obvious to simply "strip down" the system proposed by Meadows is unsupported by the prior art and contrary to mandates of the MPEP.

Meadows and the other references of record in the present application disclose elaborate and expensive system because they are not concerned with the development of a system which may be readily utilized on golf courses unwilling or unable to incur the expense of an elaborate GPS system. Rather, they are intent upon providing elaborate systems offering golfers a wide range of possible information concerning a golf course, but at a high price. To suggest that it would have been obvious to modify Meadows such that only front and middle green coordinates are provided is entirely contrary to the teachings of Meadows. Meadows neither contemplates such a system nor suggests how such a system would work. Absent a suggestion to modify Meadows as proposed by the Examiner or a suggestion as to how someone would modify Meadows as proposed in by the Examiner, it is Appellant's opinion that claim 1 is not obvious based upon the prior art of record.

In addition to providing a suggestion for the modification of the prior art to read upon the pending claims, the Examiner must show a reasonable expectation of success in modifying the primary reference based upon the teachings of the prior art. The Examiner appears to support this criteria by contending that it would be easy to "strip down" the system disclosed by Meadows. This could not be further from the truth. Appellant did not simply arrive at the present system, but developed the concept of providing a cost effective and functional golf distance system after much thought and deliberation.

Finally, and as briefly discussed above, the prior art reference (or references when combined) must teach or suggest **all** the claim limitations. Meadows alone does not disclose all features of the claimed invention. Specifically, Meadows does not disclose a cradle which includes a memory storing information relating to coordinates on a golf course and an input/output transmitting information to the personal digital assistant, wherein the coordinates stored within the memory of the cradle consist of a first coordinate relating to the front of each of the hole greens and a second coordinate relating to the middle of each of the hole greens. As such, and considering the fact that Meadows is the only cited reference, the Examiner has once again failed to provide sufficient support for the outstanding rejection.

For the foregoing reasons it is Appellant opinion that the rejection of claim 1 based upon the simple disclosure of Meadows is improper and Appellant respectfully requests that the rejection be withdrawn.

Claim 4, claims the method for implementing the system defined in claim 1. As such, claim 4 defines a method for providing golfers with distance information relating to the location of the golfer relative to predefined locations associated with a front of a hole green and a middle of a hole

green. The method is achieved by measuring coordinate information relating to the positions on a golf course. The coordinate information consists of a first coordinate relating to the front of each of the hole greens and a second coordinate relating to the middle of each of the hole greens, wherein the limited number of coordinates makes it possible for an individual to quickly store the required coordinates. The method further involves storing the coordinate information within a personal digital assistant cradle maintained at a golf course and loading the coordinate information within a personal digital assistant including a GPS function, a memory, a processor, an input/output. The method further relies upon means for calculating and displaying distance between a golfer's location and a designated coordinate on the golf course based only upon the predefined coordinate information as loaded onto the personal digital assistant via the cradle.

Similarly, claim 8 defines the cradle for use in translating golf related information to a personal digital assistant, wherein the personal digital assistant includes a GPS function, a memory, a processor including means for calculating and displaying distance between a golfer's location and designated coordinate on a golf course, and an input/output. The cradle includes a cradle body shaped and dimensioned for receiving the personal digital assistant and transferring information thereto. The cradle further includes a memory storing coordinate information relating to a golf course. The coordinate information consists of a first coordinate relating to the front of each of the hole greens and a second coordinate relating to the middle of each of the hole greens. The coordinate information is capable of being stored by an individual walking the golf course.

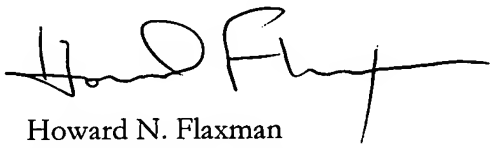
Claims 4 and 8, as well as those claims dependent upon claims 1, 4 and 8, are believed to be allowable over Meadows and the other prior art of record for the reasons presented above with regard to independent claim 1. As such, Appellant respectfully requests that the rejection relating to

these claims also be reversed.

II. CONCLUSION

In conclusion, Appellant have now shown that the references cited by Examiner neither disclose nor suggest the claimed system or method when taken individually or in combination. Therefore, it is respectfully requested that the outstanding rejections of claims 1, 3-5, 8, 10 and 11 be reversed.

Respectfully submitted,



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APPENDIX
CLAIMS ON APPEAL

1. A system for providing golfers with distance information relating to the location of the golfer relative to predefined locations associated with a front of a hole green and a middle of the hole green, comprising:

a personal digital assistant including a GPS function, a memory, a processor and an input/output;

a cradle shaped and dimensioned for receiving the personal digital assistant and transferring information thereto, the cradle including a memory storing information relating to coordinates on a golf course and an input/output transmitting information to the personal digital assistant, wherein the coordinates stored within the memory of the cradle consist of a first coordinate relating to the front of each of the hole greens and a second coordinate relating to the middle of each of the hole greens;

wherein the personal digital assistant includes means for calculating and displaying distance between a golfer's location and a designated coordinate on the golf course based upon the first and second coordinates as loaded onto the personal digital assistant via the cradle.

3. The system according to claim 1, wherein the coordinates are at most 36 coordinates found on the golf course.

4. A method for providing golfers with distance information relating to the location of the golfer relative to predefined locations associated with a front of a hole green and a middle of the holes green, comprising the following steps:

measuring selected coordinates information relating to positions on a golf course, wherein the coordinate information consists of a first coordinate relating to the front of each of the hole greens and a second coordinate relating to the middle of each of the hole greens wherein the limited number of coordinates makes it possible for an individual to quickly store the required coordinates;

storing the coordinate information within a personal digital assistant cradle maintained at a golf course;

loading the coordinate information within a personal digital assistant including a GPS function, a memory, a processor, an input/output and means for calculating and displaying distance between a golfer's location and a designated coordinate on the golf course based only upon the predefined coordinate information as loaded onto the personal digital assistant via the cradle.

5. The method according to claim 4, wherein the step of measuring includes walking the golf course and taking location readings at preselected locations on the golf course.

7. The method according to claim 4, wherein the step of measuring includes taking at most 36 coordinate measurements on the golf course.

8. A cradle for use in transferring golf related information to a personal digital assistant including a GPS function, a memory, a processor including means for calculating and displaying distance between a golfer's location and a designated coordinate on a golf course, and an input/output, the cradle comprising;

a cradle body shaped and dimensioned for receiving the personal digital assistant and transferring information thereto; and

a memory storing coordinate information relating to a golf course, wherein the coordinate informations consist of a first coordinate relating to the front of each of the hole greens and a second coordinate relating to the middle of each of the hole greens and the coordinate information is capable of being stored by an individual walking the golf course, and an input/output transmitting information to the personal digital assistant.

10. The cradle according to claim 8, wherein the coordinates information is at most 36 coordinates found on the golf course.

11. The method according to claim 4, further including the stop of charging the golfer a fee for the coordinate information downloaded to the personal digital assistance.